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23 *and ASUS Computer International*

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

KONINKLIJKE PHILIPS N.V.,  
U.S. PHILIPS CORPORATION

**Plaintiffs,**

V.

ASUSTEK COMPUTER INC.,  
ASUS COMPUTER INTERNATIONAL

## Defendants.

Case No. 4:18-cv-01886-HSG

**DECLARATION OF MICHAEL J.  
NEWTON REGARDING PLAINTIFFS'  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL (DKT. NO. 442)**

**MICROSOFT CORPORATION,**

### **Intervenor-Plaintiff,**

V.

KONINKLIJKE PHILIPS N.V.,  
U.S. PHILIPS CORPORATION,

#### **Intervenor-Defendants.**

Judge: Hon. Haywood S. Gilliam, Jr.

Court: Courtroom 2

KONINKLIJKE PHILIPS N.V.,  
U.S. PHILIPS CORPORATION,

## **Intervenor- Defendants/Counterclaim Plaintiffs in Intervention**

V.

MICROSOFT CORPORATION

**Intervenor-  
Plaintiff/Counterclaim  
Defendant in Intervention**

## AND

MICROSOFT MOBILE INC.

## Counterclaim Defendant in Intervention

1 I, Michael J. Newton, hereby declare as follows:

2 1. I am an partner with the law firm of Alston & Bird LLP, counsel for Defendants  
3 ASUSTeK Computer Inc. (“ASUSTeK”) and ASUS Computer International (“ACI”) (collectively,  
4 “ASUS”) in the above-captioned action. I am a member in good standing of the State Bars of  
5 California and Texas and am admitted to practice before this Court. I have personal knowledge of  
6 the facts set forth in this declaration, and if called as a witness, I could and would testify competently  
7 thereto.

8 2. I submit this declaration pursuant to L.R. 79-5(d)(1)(A) and 79-5(e)(1) in support of  
9 Plaintiffs’ Administrative Motion to File Under Seal Regarding Plaintiffs’ Reply to HTC Corp. And  
10 HTC America, Inc.’s Response to Plaintiffs’ Motion to Consolidate Certain Matters for Trial  
11 (“Motion to Seal”). (Dkt. No. 442.)

12 3. Exhibits 5, 9, 13, 17, and 23 attached to the Declaration of John D. Carlin in Support  
13 of Plaintiff’s Motion to Seal (Dkt. No. 442-1) were indicated as containing ASUS’s confidential  
14 information.

15 4. Exhibits 5, 9, 13, and 17 are excerpts of Plaintiff’s Third Amended Infringement  
16 Contentions that do not contain ASUS’s confidential information and thus need not be sealed. True  
17 and correct copies of Exhibits 5, 9, 13, and 17 are attached hereto as **Appendix A**.

18 5. Exhibit 23 is an excerpt of deposition transcripts of testimony provided by an ASUS  
19 witness. The excerpt contains ASUS-designated information that is confidential and sealable.  
20 Exhibit 23 contains information designated by ASUS as “Highly Confidential – Outside Counsel  
21 Only” pursuant to the Protective Order entered in this case because they contain references to  
22 ASUS’s confidential business information and technical product configuration relating to the ASUS  
23 products accused of infringement in this action. Attached hereto as **Appendix B** is a redacted public  
24 version of Exhibit 23, which redacts such confidential information.

25 6. This information is not available to the public, and given the highly competitive  
26 nature of the computer industry, ASUS would likely be harmed by the public disclosure of this  
27 proprietary information because it would give ASUS’s competitors a window into ASUS’s  
28 confidential business, technical, and production information.

1  
2 I declare under the penalty of perjury under the laws of the United States of America that, to  
3 the best of my knowledge and belief, the foregoing is true and correct.  
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5 Executed in Dallas, Texas, this 27th day of August, 2018.  
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7 */s/ Michael J. Newton*  
Michael J. Newton  
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## **CERTIFICATE OF SERVICE**

I, Michael J. Newton, certify and declare as follow:

1. I am over the age of 18 and not a party to this action.
  2. My business address is 2828 North Harwood Street, Suite 1800, Dallas, Texas 75201.
  3. On August 27, 2018, I caused a copy of **DECLARATION OF MICHAEL J.**

**NEWTON REGARDING PLAINTIFF'S ADMINISTRATIVE MOTION TO FILE UNDER  
SEAL** to be served upon all counsel of record in this case via e-mail.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on the 27th day of August, 2018, in Dallas, Texas.

/s/ Michael J. Newton  
Michael J. Newton